

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

POWAY UNIFIED SCHOOL DISTRICT)
GARDEN ROAD ELEMENTARY SCHOOL)
NONCOMPLIANCE WITH WATER CODE)
§ 13376, AND STATE BOARD ORDER)
NO. 99-08-DWQ)

COMPLAINT NO. R9-2006-0105
FOR
ADMINISTRATIVE CIVIL LIABILITY

August 15, 2006

POWAY UNIFIED SCHOOL DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Poway Unified School District (hereinafter District) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability under section 13385 of the Water Code.
2. On July 19, 2006, the District commenced construction activities for a 4-acre site located at 14614 Garden Road, Poway, California. Seven days later, the District submitted a Notice of Intent (NOI) to the State Water Resources Control Board (State Board) on July 26, 2006, after receiving notification by the City of Poway. The State Board issued WDID #037C342741 on July 27, 2006.
3. On July 26, 2006, the Regional Board inspected the site and observed, documented and photo-documented evidence of inadequate Best Management Practices (BMPs) and a discharge of sediment-laden water to an unnamed tributary to Poway Creek (inspection report attached). At the time of the inspection, the District had neither filed a NOI nor prepared or implemented a Storm Water Pollution Prevention Plan (SWPPP) at the site.
4. On August 9, 2006, the Regional Board conducted a follow-up inspection and confirmed that a SWPPP had been prepared and BMPs were on-site (inspection report attached).
5. Reports submitted by Soltek Pacific on behalf of the District dated July 28, 2006 and July 31, 2006 documented that the SWPPP was delivered on-site July 31, 2006 and confirm that the subject site had unauthorized discharges to the MS4 on July 25 and 26, 2006.

ALLEGATIONS

6. **Failure to Prepare and Implement Storm Water Pollution Prevention Plan**
The District failed to prepare and implement its SWPPP by failing to create or provide a SWPPP on-site and implement adequate BMPs at the site, in violation of

California State Water Resources Control Board (State Board) Order No. 99-08-DWQ section C.2 for at least 12 days (July 19 through July 30, 2006).

7. Failure to File Notice of Intent

The District failed to file a NOI for coverage under State Board Order No. 99-08-DWQ, *NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* prior to the commencement of construction activity at the site on July 19, 2006 as required by Water Code section 13376, and Order No. 99-08-DWQ section C.1. The State Board received a NOI for the site on July 27, 2006, for a total of 8 days in violation. The Garden Road Elementary School site will continue to be regulated under State Board Order No. 99-08-DWQ until its expected completion, on August 30, 2006.

8. Sediment Discharge

On July 25 and 26, the District discharged sediment laden, chlorinated water into a Municipal Separate Storm Sewer System (MS4) conveyance system to an unnamed tributary to Poway Creek, in violation of Discharge Prohibition A.2 of Order No. 99-08-DWQ for 2 days.

PROPOSED CIVIL LIABILITY

The maximum liability for each violation is \$10,000 per day. Therefore, based on the summary of all alleged violations, the total maximum liability is \$220,000. Based on consideration of the factors listed in section 13385 of the Water Code, the total recommended civil liability for alleged violations is \$32,800. The recommended liability is based on the following:

9. Failure to prepare and implement the SWPPP occurred for a minimum of 12 days; therefore, the maximum liability is \$120,000. Civil liability for failure to prepare and implement the SWPPP should be imposed on the District in the amount of \$1,000 per day, for 12 days, for a liability of \$12,000.
10. The discharger failed to file a NOI for 8 days; therefore the maximum liability is \$80,000. Civil liability for failure to file a NOI should be imposed on the District in the amount of \$100 per day, for 8 days, for a liability of \$800.
11. The discharge of sediment laden, chlorinated water occurred for 2 days; therefore the maximum liability is \$20,000. Civil liability for an unregulated discharge should be imposed on the District in the full amount, for 2 days for a liability of \$20,000.

Dated this 14th day of August, 2006

JOHN H. ROBERTUS
Executive Officer